

DOCKET NO.: HHD-CV-18-6088970-S	:	SUPERIOR COURT
	:	
GLORIA FARBER as Executor of the	:	JUDICIAL DISTRICT OF
Estate of HILLIARD FARBER	:	HARTFORD
	:	
V.	:	AT HARTFORD
	:	
FORE GROUP, INC. and FOTIS DULOS	:	AUGUST 6, 2019

**DEFENDANTS' REPLY TO OBJECTION TO MOTION TO POST SURETY BOND**

In her *Objection to Motion for Order Requiring Surety Bond* dated August 5, 2019 (Doc. 192.00), the plaintiff has shown exactly why a surety bond should be posted in this case to protect the defendants from the damages that may result from her execution of any prejudgment remedy. Indeed, the plaintiff has laid bare for the Court her intention to attempt to use other irrelevant proceedings to leverage results in this present litigation to the damage of the defendants and put them out of business, regardless of the outcome of a trial on the merits.

A simple reading of the relevant statutes almost completely eviscerates the plaintiff's objection to the posting of a bond. First, there can be no waiver of the request to post a bond, because the statute explicitly says that a defendant can request it at "any time" after its granting:

At any hearing on an application for a prejudgment remedy held pursuant to this section **or upon motion of the defendant at any time after the granting of such application**, the defendant may request that the plaintiff post a bond, with surety, in an amount determined by the court to be sufficient to reasonably protect the defendant's interest in the property that is subject to the prejudgment remedy against damages that may be caused by the prejudgment remedy. If the court grants the defendant's request, the bond shall provide that if judgment in the matter is rendered for the defendant or if the prejudgment remedy is dismissed or dissolved, the plaintiff will pay to the defendant damages directly caused by the prejudgment remedy.

*Conn. Gen. Stat.* § 52-278d(d) (emphasis added). Not surprisingly, the plaintiff has cited no authority that contradicts the statutory language and that would support any claim of waiver. As a result, the Court should reject that argument summarily.

Second, the statute providing for the posting of a surety bond is designed to protect a defendant saddled with a prejudgment remedy based upon a lowered standard of probable cause against the eventuality of a judgment in the defendant's favor at trial based upon a higher standard, such as preponderance of the evidence or even clear and convincing evidence. As a result, the notion that a prejudgment remedy cannot ultimately be determined, after trial, to be wrongful or improper or incorrect, finds no support in the law or in logic. Regardless of whether a Court may have been correct in finding probable cause for a prejudgment remedy in advance of trial and prior to completed discovery, the prejudgment remedy may still be "wrongful," if a finder of fact rules in favor of the defendant or awards the plaintiff less than the amount of the prejudgment remedy. A prejudgment remedy is not a summary judgment ruling. Thus, the argument that the prejudgment remedy cannot be "wrongful" cannot be a basis to oppose the posting of a bond. Therefore, that argument, too, should be rejected.

The defendants have simply asked the Court to provide the statutory protection they should be afforded under the law and pursuant to equity. The plaintiff has obtained a prejudgment remedy already and, as the undersigned understands it, has attached multiple properties that may exceed the amount already awarded. Equity requires that, in exchange for the protections afforded the plaintiff by the prejudgment remedy and the burdens imposed upon the defendant thereby, the plaintiff provide protection to the defendants in the event there is a verdict in their favor after a full trial on the merits.

Indeed, the plaintiff acknowledges in her objection that the prejudgment remedy is tying up money that the defendants need to stay in business, and the sole reason for the prejudgment remedy and the objection appears to be to put the defendants out of business. That should be enough to assure the Court of the need for the statutory protection requested by the defendants.

The defendants will not address the remaining unsupported, incendiary statements made in the objection, except to say that they show the plaintiff's motive and further support the need for the posting of a bond in this case.

For these reasons, the objection filed by the plaintiff should be overruled, and the Court should issue an order requiring a bond in the amount requested by the defendants or hold a hearing to hear evidence as to the properties impaired by attachments/garnishments and the potential damages to the defendants if there is a judgment favorable to the defendants after a full trial on the merits.

DEFENDANTS,  
FORE GROUP, INC. AND  
FOTIS DULOS

A handwritten signature in blue ink, appearing to read 'William E. Murray', with a long horizontal stroke extending to the right.

BY \_\_\_\_\_

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### **CERTIFICATION OF SERVICE**

This shall certify that a copy of the foregoing was served on this 6<sup>th</sup> day of August, 2019

on the following:

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William E. Murray